

IC 6-9-24

Chapter 24. Nashville Food and Beverage Tax

IC 6-9-24-1

Application of chapter

Sec. 1. This chapter applies to a municipality (as defined in IC 36-1-2-11) located in a county having a population of more than fourteen thousand nine hundred (14,900) but less than sixteen thousand (16,000).

As added by P.L.111-1987, SEC.1. Amended by P.L.12-1992, SEC.51; P.L.170-2002, SEC.47.

IC 6-9-24-2

Definitions

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-3

Ordinance imposing tax

Sec. 3. (a) The fiscal body of the municipality may adopt an ordinance to impose an excise tax, known as the municipal food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the municipal food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-4 Version a

Taxable transactions; exemption

Note: This version of section effective until 1-1-2004. See also following version of this section, effective 1-1-2004.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the municipality in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or

beverage sold on a "take out" or "to go" basis; or
(3) sold by a street vendor.

(c) The municipal food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-4 Version b

Taxable transactions; exemption

Note: This version of section effective 1-1-2004. See also preceding version of this section, effective until 1-1-2004.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the municipality in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The municipal food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.111-1987, SEC.1. Amended by P.L.257-2003, SEC.37.

IC 6-9-24-5

Rate of tax

Sec. 5. The municipal food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under

IC 6-2.5.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-6

Collection of tax; returns

Sec. 6. The tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-7

Payment of receipts to municipality

Sec. 7. The amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the municipality upon warrants issued by the auditor of state.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-8

Food and beverage tax receipts fund

Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the fiscal body of the municipality shall establish a food and beverage tax receipts fund.

(b) The fiscal officer of the municipality shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in this fund shall be used by the municipality solely to finance, construct, improve, equip, operate, and maintain public parking and public restroom facilities or to renovate, equip, operate, and maintain any structure that may be used as a public parking or public restroom facility. The municipality may enter into lease or contractual arrangements, or both, with governmental, not-for-profit, or other private entities to operate and maintain these facilities.

As added by P.L.111-1987, SEC.1.

IC 6-9-24-9

Termination dates

Sec. 9. (a) If the tax is imposed by a municipality under this chapter, the tax terminates January 1, 2007.

(b) This chapter expires July 1, 2007.

As added by P.L.111-1987, SEC.1.